

**INDIAN WELLS VALLEY
GROUNDWATER AUTHORITY
POLICY ADVISORY COMMITTEE
MINUTES**

**Indian Wells Valley Water District
500 W. Ridgecrest Blvd.
Ridgecrest, CA 93555**

Thursday December 6, 2018 6:00PM

Members Present:

Ed Imsand, Patricia Quist, Tim Carroll, Nick Panzer, Renee Westa-Lusk, West Katzenstein,
Lyle Fisher, Rajanihart Jonnala-gadda, Don Zdeba, David Janiec, Josh Nugent,
James Mower, Ryan Klausch

Members Absent:

John Kersey, Lorelei Oviatt

1. CALL TO ORDER:

The meeting was called to order by Vice Chairperson David Janiec at 6:00 p.m. Vice Chairperson David Janiec declared there was a quorum present after roll call was taken. There were 10 out of 11 voting members present. A quorum is 7 out of 12 voting members. Tim Carroll arrived late and made the quorum 11 out of 11 voting members. Stan Rajtora East Kern Resource Conservation District (EKRCDD) representative attended. He has applied to be appointed by the IWVGA Board to be appointed to the EKRCDD position on the PAC vacated by Donna Thomas.

2. APPROVAL OF SEPTEMBER 6, 2018 AND NOVEMBER 1, 2018 MINUTES POSTPONED

Renee Westa-Lusk PAC Member and appointed minute taker passed out copies of the partially completed September 6, 2018 minutes for members to review. It was decided to postpone the approval of the September minutes until the January meeting when the November 1, 2018 minutes could also be completed to approve.

3. PUBLIC COMMENT

The Vice Chair David Janiec called for the public to address the Committee about matters NOT on the agenda. No action could be taken on non-agenda items unless authorized by law. Comments were limited to three minutes per person.

Lee Knudtson representing the Company of WellIntel announced his well monitoring service available to any well owner who wants their well monitored.

Lauren Jennings of the Daily Independent introduced herself explaining she was the new education and community reporter taking Jack Barnwell's position.

4. ALTERNATIVE PUMPING SCENARIOS AND PROCESS GUIDANCE UPDATE

The Vice Chairperson David Janiec announced that on this Friday December 7, 2018 Mr. Markman Special Counsel of the IWVGA will be having a follow up meeting from the October

1, 2018 individual meetings with each water pumper groups' attorneys. At the December 7 th meeting alternative scenarios and the process guidance on how to proceed from there that Attorney Markman and his team has seen before work successfully with other basin communities to avoid litigation will be presented and discussed. Mr. Markman's objective is to look at what are an equitable and fair set of alternatives, options, and agreements to avoid litigation. Mr. Markman will be presenting on what is achieved at the December 7, 2018 at the January 3, 2019 PAC meeting. West Katzenstein PAC Member pointed out not all pumper groups have attorney representation and that makes some groups nervous. The GA Board's intent is to have Mr. Markman as a sobering and calming influence at the December 7, 2018 and January 3, 2019 meetings. Vice Chairperson David Janiec asked the PAC Members can we come to consensus that we agree to have Mr. Markman present at the January 3, 2019 PAC meeting? PAC Member Josh Nugent requested that any power point handouts be made available in advance of the January 3 rd meeting so the public would have access to any documents for Mr. Markman's presentation. Hearing no objection to the consensus of opinion on the presentation of the January 3 rd PAC meeting the Vice Chairperson moved the meeting on to agenda item no. 5 **(Please refer to audio recordings of PAC Dec. 6, 2018 meeting on the iwvga.org website for full discussion of the whole meeting.)**

5. NOMINATION AND SELECTION OF PAC CHAIRPERSON

Due to the resignation of PAC Chairperson Donna Thomas on November 15, 2018 it was necessary to elect a new Chairperson for the PAC.

A motion to nominate David Janiec was made by Lyle Fisher and seconded by Patricia Quist.

Passed 11 ayes: Imsand, Quist, Carroll, Panzer, Westa-Lusk, Katzenstein, Fisher, Jonnala-gadda, Janiec, Nugent, Mower
Abstentions: 0 Nays: 0

PUBLIC COMMENT

None

David Janiec Chairperson thanked everyone. Then he opened up the floor for nominations for the office of Vice Chairperson.

A motion to nominate Nick Panzer for Vice Chairperson was made by West Katzenstein and seconded by Lyle Fisher. Nick Panzer withdrew his name from nomination because he said could better support the GSP process more effectively on the PAC as a regular PAC Member.

A motion to nominate Josh Nugent for Vice Chairperson was made by Patricia Quist and seconded by Nick Panzer. Josh Nugent withdrew his name from nomination because he does not reside in the Indian Wells Valley and because Pat Quist has been in this valley a long time and has a long local history in the valley.

A motion to nominate Patricia Quist for Vice Chairperson was made by Josh Nugent and seconded by James Mower.

Passed 11 ayes: Imsand, Quist, Carroll, Panzer, Westa-Lusk, Katzenstein, Fisher, Jonnala-gadda, Janiec, Nugent, Mower

Abstentions: 0 Nays: 0

Congratulations was given to Pat Quist

PUBLIC COMMENT none

6. DEMINIMUS PUMPERS (refer to audio recording of meeting at iwvga.org)

Chairperson David Janiec started the discussion with the following points:

1. Guidance/recommendations on strategy for voluntary well registration are needed.
2. PAC was tasked at the July 12, 2018 meeting on subsequent voluntary well registration.
3. One of the sustainability criteria TAC is going to run through the model is “minimizing impact on shallow wells”. It is in their interest to register their well.
4. Go back to the July 12 meeting minutes: the foundation is to focus on key items that are the least threatening to the well owners to get them to register their wells

The following PAC Members made comments: Pat Quist, Lyle Fisher, David Janiec, Josh Nugent, Lyle Fisher, Tim Carroll, Josh Nugent, West Katzenstein, and Jame Mower.

The following points were made from the PAC Members discussion:

1. IWVGA must make it an advantage for Deminimus Well Owners to register their well
2. the County list of wells is incomplete
3. PAC Members need to review the July 12, 2018 PAC Meeting minutes
4. Incentives to metering wells could include a) monetary incentives such as free metering up to a certain date, free gifts for metering, discounted fee schedule by GA, b) explanation of what happens to your data once the GA obtains it, c) security of data by the GA needs to be shown
5. Advantages for metering could include: a) negative consequences for not metering, b) Kern Co. has plans to decrease the number individual wells to fewer deeper wells, c) mitigate cost sharing of well repairs because of clustering and aging of wells
6. DAC money available to help disadvantaged community well owners
7. Communications Specialist is needed to draft a message and get APN mailing list
8. Cost analysis needed for estimating monetary incentives (well repair, free metering)
9. Refer GA to July 12 PAC minutes on how to get well owners to register their wells

APPOINTMENT OF AD-HOC COMMITTEE TO DRAFT A MESSAGE

Chairperson David Janiec asked the PAC Members who would be willing to serve on an Ad Hoc Committee for crafting a message? West Katzenstein, Lyle Fisher, Josh Nugent, and James Mower volunteered. David Janiec appointed the AD-HOC Committee and designated West Katzenstein as the Organizational Leader of the AD-HOC Committee. The Ad Hoc committee could reach out to Lorelei Oviatt as she has offered in the past.

PUBLIC COMMENT

The following Members of the Public commented: Judie Decker, Derek Hoffman (Attorney for Meadowbrook Dairy), Don Decker, Earl Wilson (Member of the TAC), Peggy Breeden, Skip Gorman, Elaine Mead, and Tim Parker (Hydrogeologist/Consultant for IWVWD).

The following points were made during the public comment:

- It is the GA's responsibility to inform the public, PAC must operate under the Brown Act
- Pull out Engagement and Communication Plan to help craft a message
- Seek assistance from Department of Water Resources Support Services to craft message
- Domestic Well Owners Association data shows 40 Mutuals registered, 7 to 8 of the Mutuals are as in trouble as single family wells
- a lot of struggle (lack of cooperation) with Cooperatives and Mutuals
- Domestic Well Owners Association has contact with these well owners via monthly newsletter which reaches about 2/3rds of the domestic well owners in the valley
- The GA could help the PAC tie in with the grants available to help well owners
- Brown & Caldwell Report: 1103 Domestic Wells in 2016 known to County, 40 shallow wells with 491 Mutuals (hook ups) M& C, 1588 residences 2014, 491 residences Mutual & Cooperative, 265 connections in IYK, 892 domestic wells Todd report + 40 shallow wells total 932 wells. Project not insurmountable with your help the project can be completed
- Many well owners not sold on registering wells, must convince
- Water quality is an incentive to register a well
- should letters to the editor by individual PAC Members be vetted through the PAC?
- money available for helping well owners, GA needs to pursue grant money
- no well expenses under \$5,000, shallow well 300 ft or less
- come up with 3 advantages for well owners to register their wells
- Private landowners could be assessed a parcel based fee to pay for the GA eventually and the public needs to understand this
- it could be challenged in court if not enough communication, need to get the attorneys to address this issue if not sufficient communication (newspaper notification is minimum may not meet sufficiency in court)

Recommendations

Chair David Janiec recommended that the GA send written information with each Domestic Well Owners Newsletter to attend GA meetings and encourage well owners to register their wells.

The Chairperson David Janiec summarized the consensus of most comments by PAC Members and Members of the Public as follows to be sent in a report emailed to the GA:

1. no cost or minimize costs to register each well (July 12, 2018 minutes)
2. PAC needs a communication plan
3. Ad-Hoc Committee appointed to draft a message
4. specific cost recommendations must be made to the GA for communication to the public and incentives for metering
5. PAC Minutes to provide summary to the GA of recommendations for well registration
6. PAC Members each to review PAC July 12, 2018 meeting minutes and provide additional thoughts to David Janiec who will forward them on to the Ad Hoc Committee.
7. Each PAC Member to email the David Janiec with their comments on drafting a message for well registration one week from today December 13. Send an RSVP if no additional comments to David Janiec. The Ad Hoc committee needs these comments in one week by December 13.

7. GSP CHAPTER REVIEW (CHAPTER 1)

Chairperson David Janiec announced that the TAC will be distributing electronically to all PAC Members the first draft of Chapter 1 of the GSP. Comments are due back by mid January to Steve Johnson Water Resource Manager (WRM) of the IWVGA.

8. MEMBER COMMENTS

Pat Quist asked if official letter could come from county tax payer tax bill to each APN from the GA explaining well registration and GA is mandated by the state. She also asked to contact Lorelei Oviatt for assistance with APNs. She noted small trees are not watered in the winter.

West Katzenstein said we need to report value we see in a letter going out to all APNs to communicate about well registration and the GA.

Lyle Fisher stated January 19, 2019 the first class stamp will go up to 55 cents.

Josh Nugent said the PAC Members think the \$11,000 expense of mailing to the APNs is worth informing the well owners.

James Mower asked is anyone keeping track of managing the information and two way communication? Answer: Stetson Engineering

David Janiec reminded PAC Members we are a Brown Act Committee and must be careful with what we communicate to the public. Do we need to consider at a future meeting a policy on Individual PAC Member comment vs. PAC Members Group comments? January 3, 2018 meeting will be with Mr. Markman. He thanked all PAC Members and the Public for their support and participation. He reminded everyone there are only 12 months left to get the GSP Plan finished.

Renee Westa-Lusk commented on public communication by PAC Members.

Don Zdeba announced the final draft report of the Hydrogeological Conceptual Model (HCM) developed on the SkyTem Project and other data will be completed in December. A presentation in around next GA meeting either preceding Wednesday or following Friday January 16 or 18. He said he attended an ACWA Conference in San Diego recently with over 420 member water agencies represented where the HCM was being presented and raised the visibility of the Indian Wells Valley statewide.

Ryan Klausch will not be at the January 3, 2019 PAC meeting he will be in Wisconsin.

9. ADJOURN TO OCTOBER 3, 2018 MEETING 6PM AT IWVWD BOARD ROOM

The Chairperson David Janiec hearing no objection adjourned the meeting at 7:55PM.

Submitted by

Renee Westa-Lusk appointed minute taker Member of the PAC

**INDIAN WELLS VALLEY
GROUNDWATER AUTHORITY
POLICY ADVISORY COMMITTEE
MINUTES**

**Indian Wells Valley Water District
500 W. Ridgecrest Blvd.
Ridgecrest, CA 93555**

Thursday November 1, 2018 6:00PM

Members Present:

Ed Imsand, Patricia Quist, Tim Carroll, Renee Westa-Lusk, West Katzenstein, Lyle Fisher,
Donna Thomas, Rajanihart Jonnala-gadda, Don Zdeba, John Kersey, Josh Nugent,
James Mower, Ryan Klausch

Members Absent:

Nick Panzer, David Janiec, Lorelei Oviatt

1. CALL TO ORDER:

The meeting was called to order by Chairperson Donna Thomas at 6:03 p.m. The Chairperson Donna Thomas declared there was a quorum present after roll call was taken. There were 9 out of 12 voting members present. A quorum is 7 out of 12 voting members.

James Mower arrived a few minutes late bringing the quorum to 10 out of 12 voting members.

The Chairperson announced the availability of the green sheets for members of the public to write out their comments and turn them into the PAC Committee.

2. APPROVAL OF AUGUST 2, 2018 MINUTES

A motion to approve the August 2, 2018 minutes with all hand outs attached was made by Patricia Quist and seconded by Lyle Fisher.

Passed 10 ayes: Imsand, Quist, Carroll, Westa-Lusk, Katzenstein, Fisher, Thomas, Jonnala-gadda, Nugent, Mower

3. PUBLIC COMMENT

The Chairperson Donna Thomas called for the public to address the Committee about matters NOT on the agenda. No action could be taken on non-agenda items unless authorized by law. Comments were limited to three minutes per person.

No public comments were made.

4. DISCUSSION OF PUMPING ALLOCATIONS AND COMMENTS REGARDING USES AND USERS (Please refer to Mr. Markman's summary of Oct. 1, 2018 meetings)

Chairperson Donna Thomas referred PAC Members to the 7 page handout by Attorney Jim Markman which is a summary of key points from his discussion meetings with each of the different stakeholders of water users who are Members of the PAC. The discussion meetings occurred on October 1, 2018.

Chairperson Donna Thomas then called for comments from PAC Members.

1) Patricia Quist stated that there are other users in the valley not included in the stakeholders list that Mr. Markman met with. The IWV Brewery and a list Cooperatives of this valley need to be researched and included in the list of water user stakeholders.

2) Chairperson Donna Thomas stated that Disadvantaged Communities (DAC) grants need to be applied for which address 1) water leaks and 2) audit systems. The grants can be applied for through the Inyo- Mono Integrated Regional Water Management (I-M IRWM) Signatory Grants.

Other PAC Members commenting on the October 1, 2018 meetings were Tim Carroll, Josh Nugent and West Katzenstein.

Chairperson Donna Thomas then called for public comment on the discussion meetings summary by Attorney Markman.

PUBLIC COMMENT

The following persons commented: Derek Hoffman Attorney for Meadowbrook Dairy, Judi Decker, Ryan with Granite Construction, Tim Parker (Professional Hydrogeologist), and Peggy Breeden.

The following PAC Members made comments:

West Katzenstein, John Kersey (representing the Navy), Chairperson Donna Thomas, Patricia Quist, Lyle Fisher, Josh Nugent, Ed Imsand, James Mower, Don Zdeba, Raj Jonnala-gadda, and Ryan Klausch.

The consensus of most of the comments by the PAC Members is to request from Mr. Markman and Steve Johnson a list of different stakeholder allocation scenarios that the PAC should evaluate and compare to come up with recommendations to the GA on allocations. The different stakeholder water users of PAC Members need to work together.

5. APPOINT POLICY ADVISORY COMMITTEE VICE CHAIR

Ed Imsand nominated David Janiec for Vice Chair of the PAC. The Chairperson Donna Thomas asked for any other nominations. Hearing no other nominations for Vice Chair nominations were closed and a vote was taken.

David Janiec was elected.

10 ayes: Imsand, Quist, Carroll, Westa-Lusk, Katzenstein, Fisher, Thomas, Jonnala-gadda, Nugent, Mower.

0 nays

6. & 7. OUTREACH COORDINATION AND PLANNING FOR IMPORTED WATER AND RECYCLED WATER

The Chairperson Donna Thomas referred PAC Members to the ½ page hand out from Steve Johnson WRM asking the PAC to suggest what the IWVGA roles and responsibilities should be for imported water.

The following PAC Members commented: Josh Nugent, Renee Westa-Lusk, West Katzenstein, Donna Thomas, and Patricia Quist.

PUBLIC COMMENT

The following persons made public comment: Tim Parker (Hydrogeologist), Elaine Mead, Stan Rajtora, Derek Hoffman, and Judi Decker.

A consensus of most of the comments by PAC Members and the Public is to get direction from the GA with specific tasks. There is a need for the data from TAC in order to come up with different plans or scenarios for imported water.

8. COMMITTEE MEMBER ANNOUNCEMENTS, FUTURE AGENDA ITEMS

Josh Nugent announced the IWV Cooperative Groundwater Management Group will be meeting November 15, 2018 at the Inyokern Town Hall to decide the future of the organization. Pizza will be served.

West Katzenstein wants guidance from the IWVGA on how to proceed on allocations, do we follow the numbers?

Patricia Quist wants Mr. Markman asked about what we can and cannot do?

Chairperson Donna Thomas reminded everyone to read over the BMPs for Sustainable Groundwater Management.

Ryan Klausch (BLM Rep) said his new boss will be attending in his place at future meetings.

9. ADJOURN TO OCTOBER 3, 2018 MEETING 6PM AT IWVWD BOARD ROOM

The meeting was adjourned at 7:55PM on a motion by Pat Quist and seconded by Josh Nugent.

Submitted by

Renee Westa-Lusk appointed minute taker Member of the PAC

INDIAN WELLS VALLEY GROUNDWATER AUTHORITY

POLICY ADVISORY COMMITTEE MINUTES

Ridgecrest City Hall
100 W. California Avenue
Ridgecrest, CA 93555

Thursday September 6, 2018 6:00PM

Members Present:

Ed Imsand, Patricia Quist, Renee Westa-Lusk, West Katzenstein, Lyle Fisher,
Donna Thomas, Don Zdeba, John Kersey, David Janiec, James Mower, Lorelei Oviatt

Members Absent:

Tim Carroll, Nick Panzer, Ryan Klausch

1. CALL TO ORDER:

The meeting was called to order by Chairperson Donna Thomas at 6:00p.m. Donna Thomas asked each of the members of the PAC to introduce themselves. The Chairperson Donna Thomas declared there was a quorum present after introductions were made. There were 7 out of 10 voting members present (2 resignations since Aug 2, 2018 meeting). A quorum is 6 out of 10 voting members. Patricia Quist arrived at 6:05PM making the quorum 8 out of 10 voting members. Tom Mulvillhill attended as Nick Panzer's non voting representative. Lorelei Oviatt arrived at 6:05PM.

2. APPROVAL OF AUGUST 2, 2018 MINUTES POST PONED UNTIL OCTOBER 3, 2018 MEETING. Chairperson Donna Thomas explained the August 2, 2018 minutes are posted on the IWVGA website for review and due to their lengthiness and the need for all PAC Members to review them prior to approval the approval will be postponed until the October 3, 2018 meeting.

3. PUBLIC COMMENT

The Chairperson Donna Thomas called for the public to address the Committee about matters NOT on the agenda. No action could be taken on non-agenda items unless authorized by law. Comments were limited to three minutes per person.

Sophia Merk (Member of Public) announced that the Fremont Basin Groundwater Management Plan is out. Comments due by September 20, 2018. She referred to the California City website and to look at the Edwards Air Force Base Article on water resources since 1988.

4. PRESENTATION/DISCUSSION OF WATER ALLOCATION CONCEPT BY IWVGA SPECIAL COUNSEL MR. JIM MARKMAN

Chairperson Donna Thomas introduced Steve Johnson the Water Resource Manager (WRM) of the IWVGA who was going to introduce the guest speaker.

Steve Johnson the WRM of the IWVGA gave an introduction of Special Counsel Jim Markman who specializes in water resources management issues and was hired by the IWVGA to represent the GA. He explained there is a 20 page handout that accompanied the power point

presentation. For extra copies see General Manager of the IWVGA Ron Strand. Steve Johnson stated this is an overview to set the stage for how we go about achieving sustainability from a water rights and legal standpoint. Refer to page 2 of the handout for presentation overview. We may get assignments for the next PAC meeting for concepts to start being productive with some direction. Some things will have the PAC and TAC combined together to work on at joint workshops.

Jim Markman Special Counsel (refer to page 3 of handout and see Mr. Markman's comments below.)

Goals for this PAC meeting please refer to the handout page 3 and the video of this meeting on the IWVGA website (iwvga.org).

Jim Markman's stated his task from the GA is not to advocate anybody's water rights, priorities, or numbers but instead to pull all interests in this basin together and get each interest to evaluate their strengths and weaknesses of their claims for water production rights. SGMA states when you allocate water production rights which is part of the GSP plan then the tenants of CA and Federal water rights must be followed. The task here starts with the science: what the problem is, what is the deficit, where is the production coming from, what are the potential solutions from a technical scientific point of view. His job is to pull everyone together to get an implementation plan filed that allocates water rights to a point so no one interest wants to blow this up with litigation or non-implementation so the state comes in and takes over or water interests get away from the process and just do a water rights adjudication using all the technical information generated thus far. His task is to try and make it work. We need the PAC to help us. Tentatively we need to start with what we think we know what the problem is.

Steve Johnson WRM (refer to pages 5-17 of handout and list below of points from WRM)

The information we have is the science that we have currently as we know it right now. The science is still being generated.

Page 5 Basin Overview map shows the water basin boundaries as it relates to highways 395, 14 and 178, Ridgecrest and Inyokern just general location information.

Page 6 Basin Overview from the TODD report shows hydro-geologic features of the basin does not correlate with management areas of the basin as discussed in the TAC meeting earlier today.

Page 7 Estimated Water Balance (TAC Model Ad-Hoc)

This was developed through the TAC and presented in the TAC meeting today. A general consensus of Ad-Hoc group of TAC Members have agreed on the information of inflows 7,500 AFY, outflows roughly 28,000 AFY and the deficit shown of 20,210 AFY (change in storage). Deficit is 3 times the inflows to the basin.

Page 8 Groundwater Extraction/Pumping (2015 Production numbers AFY)

This data is from the IWV Cooperative Groundwater Management Group. Shows categories of production based on 2015 production. On the right hand side of chart there is an indication of what type of water rights generally speaking they are using to pump that water for each category of production.

Page 9 Outflows- Groundwater Extraction/Pumping

The graph shows the magnitude of change of outflows over time by the following category of pumpers: private domestic, SVM (Searles Valley Mineral), Municipal, NAWS (Navy) and Agriculture.

Page 10 Hydrographs

Is a map showing locations of wells in the basin correlated with the hydrographs of these wells shown on pages 11-14. The following hydrographs show what we already know that these wells are dropping.

Page 11 Inyo Well dramatic leveling off started (1940-2015)

Page 12 Bucket Well dramatic leveling off (1960-2015)

If look at 2005 to 2010 and 2010 to 2015 find out what is going on the above 2 wells because amount of extraction has not increased and both are leveling off for several years.

Page 13 Baker Range North Well This well showing fairly level depth for years (1994-2013)

Page 14 25S/38E-35B01 Well dramatic leveling off (1960-2005)

Generally this shows what is known that we are in significant overdraft of basin.

The above 4 wells cannot explain the leveling off.

Page 15 Potential Sources of New Water/Conservation

TAC had at least 3 or 4 months of presentations on recycled and imported water. Brackish water is included as part of scope of work for the GSP it will be addressed as soon as we get some numbers. The Brackish Water Study will be included. Conservation by all water production categories will be included.

Page 16 Work in Progress (see hand out for summary page 16)

Well Registration/Pumping Fee

Basin Modeling

Projects and Management Actions (TAC and PAC)

Page 17 GSP Development Schedule (Key Topics)

(see handout page 17 for summary of timeline schedule of topics)

By the end of November 2018 model will run different scenarios: a) baseline, b) growth, c) land use and d) global. An example of a scenario is reduce by this much if pump this amount less.

Jim Markman Special Counsel (refer to pages 19, 20, 21 and 8 of hand out)

Every situation arrives at a different result. Equitable principles usually comes into play..

Difficult time to find Appellate Court decisions breaking it out to water priorities based on what kind of water right you have. Usually if they are solved, all adjudications Markman has worked in since 1990 you have to get creative, must create some kind of incentive for everyone to settle it out. Some want to litigate it until the end. An appellate decision usually creates a decision on who has the right to water imported into the basin or who has the right to salvage water from a reservoir.

Hard to find a case settled according to use. Most cases not litigated in time to preserve some of these priorities. If don't present a plan on time in Jan. 2020 the state could step in and impose. Something imposed could be a lot less digestible than something that could be worked out here.

Federal Rights Military Base's right (a priority there). Military extremely cooperative. Military does not walk away from their priority. Will only pump what they need for their priority except in a time of war, the base may need more water. If they use less than their priority right of water they usually lend out or seed out their (delta) water they don't need at a given time out to other people in the basin as their priority right. Presuming three things about the Military Base: 1) has a priority right, 2) not pumping more water than they need, and 3) they want the community to continue to function and all parts of community including agriculture are needed for making this water supply balanced. Mr. Markman doubts that the Military base will cling to their priority right and say we will take our 3500 AFY of priority right and the rest of the basin divide up the rest between yourselves. Mr. Markman doesn't see that happening.

Overlying Rights derived from common law of England concept of riparian rights allows diverting water from sources i.e. diverting water from a river on to farm land that is highest priority for water rights on that river as long as land adjacent to river. Cousin of riparian rights is overlying rights. If have a well over a basin and water comes out of the well that is an overlying right absent intervention of prescription rights or absent someone placing a public use on that water (essentially paying you to take the water away from your overlying land) then you have a priority right. Everyone in that same position have priority rights over the whole safe yield correlated amongst themselves. Ex: Central CA wine grape growers (overlyers are over subscribing the basin immensely all by themselves without cities or other appropriators doing any damage). Your right overlying the basin if it continues to exist is correlated with all the other people (overlyers) doing the same thing to the point where you are diluting each other's interests. If the later productions interest dilutes the earlier productions' interest. That is the kind of water rights in Markman's experience where people get almost religious over the fact "their well works the water comes out and they want to put that water on their property whether it is a domestic well for a home, or large AG or small AG production, a solar farm, an oil refinery whatever the water use saying "it came out of my well, on to my ground, my use, get out my way, we are not backing off any water production off the overlying use until all other water systems and appropriators stop, before we have to start cutting up the safe yield among-st ourselves." Markman has never seen a court do this nor does he ever expect a court to do this. He has heard this and there is present litigation going on right now that continues to assert this position in a tough, hard, impenetrable way.

Appropriative Rights if pump water and distribute to property you do not own in the basin or property outside the basin then you are someone who is called an appropriator. Concept about location. Most distributors of water (retail water distributors) are appropriators i.e. water districts, cities or publicly regulated water utilities are all appropriators. Given that circumstance and a big overdraft someone intervenes in time and no one gains a prescriptive right, appropriators are in second place for water rights. If have a basin where the only thing that matters is who pays for more expensive water because you have a supplemental supply which you can bring in the overlyers will say to the appropriators you pay for the supplement supply because you are invading my safe yield and you cannot do that. If it all becomes a question of money the appropriators has rate payers to distribute the cost to. Ex: Santa Maria tried to adjudicate. The water district there is bringing in supplemental water at great expense to solve the problem. Problem: they created a land/water in-gradient (sea to land) could lead to sea water intrusion importing 3,000 AFY getting off the pumps in that area that caused the depression. What they did not deal with is there is no allocation of water rights and there is no assessment on the overlying rights of Agriculture. Ag overlyers still appealing want the court to make a declaration no one can get prescriptive rights against them because they proved they have

overlying production.

Appropriators have the right to the surplus after safe yield is in whole absorbed by overlyers.
Once they take or invade the safe yield it is subject to injunction if you do it. Example: Barstow case. (About stealing the water an invasion of the water.) Example no. 2 Pasedena case.

Theoretical Effect of Over Production (refer to page 19-20) of the hand out and the video (iwvga.org) for more complete understanding of the discussion below)

Prescriptive Rights

Adverse possession or over production could cause appropriative rights to turn into prescriptive rights. Ex: if do this for 5 consecutive years or longer, open, notorious, hostile then created a prescriptive right that would give any appropriator the right to pump the lowest amount produced during those 5 years. How does prescriptive right line up with overlying right? There are no longer overlying rights. If prove prescriptive right then the people with overlying rights are converted to self-help rights.

Self-Help Rights is the amount of water the overlyer produced continuously over that same 5 year period as the prescriptive rights entity.

Ex: San Fernando case in 1970s. Overlying rights are no longer prior and paramount to the appropriative rights they have all become even because of the prescriptive period. This is Mr. Markman's perspective.

Late Overlyers: if started overlying activity or production long after the prescriptive period was over, who did not exercise any Self-Help Rights because they were not here on the basin pumping water during the prescriptive period. An argument can be made the prescriptive right was not made known because you did not exercise self-help rights during that prescriptive period so you are out of luck it is too late. Another argument:

Ex: Antelope Valley Case (many small landowners that have water rights)

Thousands in class representation, judge ruled class is out of existence because they never pumped. They are prescribed out of existence.

If can solve and make every interest meet its needs without resorting to a legal fight.

Concept of Prescriptive and Self-Help Rights are in play need to keep concepts in mind if can find a suitable solution for everyone instead of battling these things out with everyone.

Pasedena vs. Alhambra case: concept mutual prescription (everyone an appropriator), no overlying rights, you prescribed against each other. It was a cut back basin and they still have no supplemental water because of perchlorate plume (from rocket fuel) could move and knock out wells and no insurance and MWD would be held responsible for it.

10007 Civil Code prevents you from getting prescriptive rights against public entities Public entities cannot get prescriptive rights against each other.

Agricultural Overlyers cannot get prescriptive rights over public entities. So instead San Fernando said you've got prescriptive rights and you've got self-help rights you fended off prescriptive rights with self help rights to the extent you pumped water.

What does a public entity have to do to prove prescriptive rights?

Do you have to prove every one of these overlyers knew you were pumping this for years, it was hostile, over pumping. Certain lawyers asserting that you must have evidence that every one of the overlyers knew of this prescriptive rights of this hostile activity, openly, over time of 5 years and that each of the overlyers would have had to have known their priority water rights were

being reduced to an even position with the appropriators water rights.
Exporters in same position as other appropriators.

Addressing comments by issues brought up by one of the PAC Members.

-Code Section exists that states: highest priority is domestic use (municipal, industrial appropriators public water suppliers putting water in peoples' homes), second most important priority is agriculture irrigation.

-Mr. Markman has not found any case which has reached the conclusion that significant Agricultural in a basin is not a beneficial use or that has said it was less beneficial use than domestic use.

-The only case he knows of that the use was not beneficial was the Joslin case (City diverting water from a stream that affected a gravel company).

-Domestic use (a public entity or public utility), is always subject to the allegation there is a public purpose, we are going to assert a public priority or purpose on the water or you can be condemned. If someone has enough money or enough attitude or both they can condemn and assert that code section that we have a more important beneficial use we have the right to condemn to convert your water rights and property to serve people because no one is going to shut down the community where showers don't run and toilets do not flush. That right is asserted a lot in negotiations. He has not seen this code section used too many times even in negotiations.

-Police Powers vs. Proprietary interests: An Imperial County case where the county said nobody can dig a well anymore, called the Allegretti case. If overlying property and if want to spike up agricultural operation, no new wells, no increased production of present wells. Allegretti sued for adverse condemnation. Allegretti never addressed the question of whether Municipal Police Powers superseded the constitutional right of an overlyer to produce water in accordance with constitutional provision that protects overlying riparian water rights. All it said it was not adverse condemnation to adopt this regulation. That question is still out there.

Concepts (Techniques) Applied to Achieve Sustainability Concepts (see page 21 of handout)

Transferability is somebody turns the people with most money into a bank that can pay for transferring water rights away from one use to another use. Cannot transfer overlying water rights. Water rights are bound to the land unless you all agree as in the Mojave case, yes you can because we all agreed, and the Supreme Court has said if you all agree to something you can change the characteristics of the water rights you have. Transferability appears in almost everyone of these cases in some form or another. Like being a capitalist the water flows to the place who can most afford it. If can transfer can lease water rights, can transfer little by little over time, Cash flows given to transfer-er and can exceed what small agricultural operations are making, it is almost a financial bail out mechanism. Must have a bank in the position to be the tranferee. How to resolve a 20,000 AFY water deficit you need to talk about transferability because there will be pressure put on the people who want to maintain production rights. If we can get this accomplished. 1AFY of Adjudicated permanent water right (Main San Gabriel basin case) from 8 to 10 years ago has gone from \$12,000 an AFY to \$20,000 an AFY. If have a water right and calculate what it is worth it may give you an incentive to think how long you want to stay in the position you are in. It may create enough incentive to get this done with an water allocation.

Ramp Down We are given 20 years to find balance according to SGMA. Depends on the science. Not driven by large overlying interests, deep wells (water district wells are high level production wells). Usually driven by those who get hurt first small domestic wells or those at higher elevations. For example: in Main San Gabriel Basin everyone is paying extra assessment to put extra replenishment water more than the overdraft requirements in a given year because large production wells of the cities are having real problems in places high up in the foothills (Glendora and Monrovia). Everyone agreed to stave this off and pay these assessments. You cannot chip away at the people at higher elevations and put them in a deficit position like this. When I hear there is 2 million AF of stored water in this basin why do this? The problem with that is with the people with the shallower wells or small domestic wells are put in a position that their house does not work anymore. SGMA says you must find balance over 20 year period. Everyone is interested in a ramp down to buy as much time as you can if you end up in a place with less water available than what you are pumping now. Whether you are the water district, small AG, large AG, whoever you are you have an interest in not having this hit so fast it is like devastating, no one will accept that. Transferability is probably a starting point if we want to resolve all of this.

Required Water Production Reduction This is what a “ramp down is”. What is your target percentage? I hope we have supplemental water sources to talk about here. It is hard to imagine a situation that total production could go down to about one third of what you are producing now. I do not know how that could work. Hopefully scientific answers on how to create more expensive water. More people willing to pay for the costs of more water either through type of use or ramp down. The bottom line is get it done locally, get it done, nobody will escape other than the NAVY will get away with hanging on to what they have instead of sharing the responsibility of getting this in balance. Maybe it will go on for 20 years. Maybe they will change the law to give a longer ramp down period with smaller percentages of cut backs over time. Maybe we can get this done with brackish water treatment with desalters is where you have to go. May need to go to other methods that AG has used. Example: dry farming of grapes. Enlisting the help of the PAC to start talking about these concepts. Find a way to start speaking with the people we need to speak with. The GA directed me to speak with the PAC, maybe the PAC could carve up people to work on this or facilitate meetings. Imposed on the people by State Law. This is not like an adjudication, we only have a short period of time to resolve this and get this done.

Creating and Allocating Costs of Supplemental Water

PUBLIC COMMENT (see video on iwvga.org website-PAC meeting Sept. 6, 2018)

The following persons made public comments and asked questions:

Ralph Lockenmeyer, Don Decker, Tim Parker, Adam Bingham, Judy Decker, Peggy Breeden, Josh Nugent

PAC MEMBER COMMENTS (see video on iwvga.org website-PAC meeting Sept. 6, 2018)

Tom Mulvilhill(non-voting representative for Member Nick Panzer), Ed Imsand, Renee Westa-Lusk, Donna Thomas, David Janiec, Lyle Fisher, West Katzenstein, John Kersey, Don Zdeba, Lorelei Oviatt, Pat Quist

5. COMMITTEE MEMBER ANNOUNCEMENTS

Chairperson DonnaThomas announced that Steve Goddard had submitted his resignation two days ago. The IWVGA will find a replacement for him from SVM. She introduced Josh Nugent who is waiting to be appointed by the IWVGA Board to replace Rod Stiefvater who sent his letter of resignation from the PAC on August 21, 2018. Josh Nugent is representing large Agriculture.

David Janiec asked that the following actions be taken: 1) Attorney Markman and WRM Steve Johnson to meet with the stakeholder groups represented on the PAC, 2) draft a list of water rights group alternatives for PAC to consider, and 3) the PAC to have a brain storming session for options to begin with.

6. ADJOURN TO OCTOBER 3, 2018 MEETING 6PM AT IWVWD BOARD ROOM

The meeting was adjourned at 8.25PM on a motion by Pat Quist and seconded by David Janiec without objection.

Submitted by

Renee Westa-Lusk appointed minute taker Member of the PAC